



**Senate Bill No. 622**

**Public Act No. 08-14**

**AN ACT CONCERNING CERTIFICATES OF NEED ISSUED BY THE  
OFFICE OF HEALTH CARE ACCESS.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

Section 1. Subsection (a) of section 19a-637 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) In any of its deliberations involving a proposal, request or submission regarding [rates or] (1) services provided by a health care facility or institution under section 19a-638; (2) capital expenditures by a health care facility under section 19a-639 of the 2008 supplement to the general statutes; and (3) the acquisition of equipment by a person, provider, health facility or institution under section 19a-639 of the 2008 supplement to the general statutes, the office shall take into consideration and make written findings concerning each of the following principles and guidelines: The relationship of the proposal, request or submission to the state health plan pursuant to section 19a-7; the relationship of the proposal, request or submission to the applicant's long-range plan; the financial feasibility of the proposal, request or submission and its impact on the applicant's rates and financial condition; the impact of such proposal, request or submission on the interests of consumers of health care services and the payers for

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such services; the contribution of such proposal, request or submission to the quality, accessibility and cost-effectiveness of health care delivery in the region; whether there is a clear public need for any proposal or request; whether the health care facility or institution is competent to provide efficient and adequate service to the public in that such health care facility or institution is technically, financially and managerially expert and efficient; that rates be sufficient to allow the health care facility or institution to cover its reasonable capital and operating costs; the relationship of any proposed change to the applicant's current utilization statistics; the teaching and research responsibilities of the applicant; the special characteristics of the patient-physician mix of the applicant; the voluntary efforts of the applicant in improving productivity and containing costs; and any other factors which the office deems relevant, including, in the case of a facility or institution as defined in subsection (c) of section 19a-490 of the 2008 supplement to the general statutes, such factors as, but not limited to, the business interests of all owners, partners, associates, incorporators, directors, sponsors, stockholders and operators and the personal backgrounds of such persons. Whenever the granting, modification or denial of a request is inconsistent with the state health plan, a written explanation of the reasons for the inconsistency shall be included in the decision.

Sec. 2. Section 19a-639a of the 2008 supplement to the general statutes is repealed and the following is substituted in lieu thereof (*Effective from passage*):

(a) Except as provided in subsection (c) of section 19a-639 of the 2008 supplement to the general statutes or as required in subsection (b) of this section, the provisions of section 19a-638 and subsection (a) of section 19a-639 of the 2008 supplement to the general statutes shall not apply to: (1) An outpatient clinic or program operated exclusively by, or contracted to be operated exclusively for, a municipality or

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municipal agency, a health district, as defined in section 19a-240, or a board of education; (2) a residential facility for the mentally retarded licensed pursuant to section 17a-227 of the 2008 supplement to the general statutes and certified to participate in the Title XIX Medicaid program as an intermediate care facility for the mentally retarded; (3) an outpatient rehabilitation service agency that was in operation on January 1, 1998, that is operated exclusively on an outpatient basis and that is eligible to receive reimbursement under section 17b-243; (4) a clinical laboratory; (5) an assisted living services agency; (6) an outpatient service offering chronic dialysis; (7) a program of ambulatory services established and conducted by a health maintenance organization; (8) a home health agency; (9) a clinic operated by the Americares Foundation; (10) a nursing home; or (11) a rest home. The exemptions provided in this section shall not apply when a nursing home or rest home is, or will be created, acquired, operated or in any other way related to or affiliated with, or under the complete or partial ownership or control of a facility or institution or affiliate subject to the provisions of section 19a-638 or subsection (a) of section 19a-639 of the 2008 supplement to the general statutes.

(b) Each health care facility or institution exempted under this section shall register with the office by filing the information required by subdivision (4) of subsection (a) of section 19a-638 for a letter of intent at least [ten business] fourteen days but not more than sixty calendar days prior to commencing operations and prior to changing, expanding, terminating or relocating any facility or service otherwise covered by section 19a-638 or subsection (a) of section 19a-639 of the 2008 supplement to the general statutes or covered by both sections or subsections, except that, if the facility or institution is in operation on June 5, 1998, said information shall be filed not more than sixty days after said date. Not later than [ten business] fourteen days after the date that the office receives a completed filing required under this subsection, the office shall provide the health care facility or institution

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with written acknowledgment of receipt. Such acknowledgment shall constitute permission to operate or change, expand, terminate or relocate such a facility or institution or to make an expenditure consistent with an authorization received under subsection (a) of section 19a-639 of the 2008 supplement to the general statutes until the next September thirtieth. Each entity exempted under this section shall renew its exemption by filing current information once every two years in September.

(c) Each health care facility, institution or provider that proposes to purchase, lease or accept donation of a CT scanner, PET scanner, PET/CT scanner or MRI scanner, cineangiography equipment or a linear accelerator shall be exempt from certificate of need review pursuant to sections 19a-638 and 19a-639 of the 2008 supplement to the general statutes if such facility, institution or provider (1) provides to the office satisfactory evidence that it purchased or leased such equipment for under four hundred thousand dollars on or before July 1, 2005, and such equipment was in operation on or before July 1, 2006, or (2) obtained, on or before July 1, 2005, from the office, a certificate of need or a determination that a certificate of need was not required for the purchase, lease or donation acceptance of such equipment.

(d) The Office of Health Care Access shall, in its discretion, exempt from certificate of need review pursuant to sections 19a-638 and 19a-639 of the 2008 supplement to the general statutes any health care facility or institution that proposes to purchase or operate an electronic medical records system on or after October 1, 2005.

(e) Each health care facility or institution that proposes a capital expenditure for parking lots and garages, information and communications systems, physician and administrative office space, acquisition of land for nonclinical purposes, and acquisition and replacement of nonmedical equipment, including, but not limited to, boilers, chillers, heating ventilation and air conditioning systems, shall

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be exempt for such capital expenditure from certificate of need review under subsection (a) of section 19a-639 of the 2008 supplement to the general statutes, provided (1) the health care facility or institution submits information to the office regarding the type of capital expenditure, the reason for the capital expenditure, the total cost of the project and any other information which the office deems necessary; and (2) the total capital expenditure does not exceed twenty-million dollars. Approval of a health care facility's or institution's proposal for acquisition of land for nonclinical purposes shall not exempt such facility or institution from compliance with any of the certificate of need requirements prescribed in chapter 368z if such facility or institution subsequently seeks to develop the land that was acquired for nonclinical purposes.

Sec. 3. Section 19a-638 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(a) Except as provided in sections 19a-487a of the 2008 supplement to the general statutes and 19a-639a to 19a-639c, inclusive:

(1) Each health care facility or institution, that intends to (A) transfer all or part of its ownership or control, (B) change the governing powers of the board of a parent company or an affiliate, whatever its designation, or (C) change or transfer the powers or control of a governing or controlling body of an affiliate, shall submit to the office, prior to the proposed date of such transfer or change, a request for permission to undertake such transfer or change.

(2) Each health care facility or institution or state health care facility or institution, including any inpatient rehabilitation facility, which intends to introduce any additional function or service into its program of health care shall submit to the office, prior to the proposed date of the institution of such function or service, a request for permission to undertake such function or service.

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(3) Each health care facility or institution or state health care facility or institution which intends to terminate a health service offered by such facility or institution or reduce substantially its total bed capacity, shall submit to the office, prior to the proposed date of such termination or decrease, a request to undertake such termination or decrease.

(4) Except as provided in sections 19a-639a to 19a-639c, inclusive, each applicant, prior to submitting a certificate of need application under this section or section 19a-639, or under both sections, shall submit a request, in writing, for application forms and instructions to the office. The request shall be known as a letter of intent. A letter of intent shall include: (A) The name of the applicant or applicants; (B) a statement indicating whether the application is for (i) a new, replacement or additional facility, service or function, (ii) the expansion or relocation of an existing facility, service or function, (iii) a change in ownership or control, (iv) a termination of a service or a reduction in total bed capacity and the bed type, (v) any new or additional beds and their type, (vi) a capital expenditure over three million dollars, (vii) the purchase, lease or donation acceptance of major medical equipment costing over three million dollars, (viii) a CT scanner, PET scanner, PET/CT scanner or MRI scanner, cineangiography equipment, a linear accelerator or other similar equipment utilizing technology that is new or being introduced into the state, or (ix) any combination thereof; (C) the estimated capital cost, value or expenditure; (D) the town where the project is or will be located; and (E) a brief description of the proposed project. The office shall provide public notice of any complete letter of intent submitted under this section or section 19a-639, or both, by publication in a newspaper having a substantial circulation in the area served or to be served by the applicant. Such notice shall be submitted for publication not later than [fifteen business] twenty-one days after [a determination] the date the office determines that a letter of intent is

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complete. No certificate of need application will be considered submitted to the office unless a current letter of intent, specific to the proposal and in compliance with this subsection, has been on file with the office [at least] for not less than sixty days. A current letter of intent is a letter of intent that has been on file at the office up to and including one hundred twenty days, except that an applicant may request a one-time extension of a letter of intent of up to an additional thirty days for a maximum total of up to one hundred fifty days if, prior to the expiration of the current letter of intent, the office receives a written request to so extend the letter of intent's current status. The extension request shall fully explain why an extension is requested. The office shall accept or reject the extension request not later than [five business] seven days from the date the office receives such request and shall so notify the applicant.

(b) The office shall make such review of a request made pursuant to subdivision (1), (2) or (3) of subsection (a) of this section as it deems necessary. In the case of a proposed transfer of ownership or control, the review shall include, but not be limited to, the financial responsibility and business interests of the transferee and the ability of the institution to continue to provide needed services or, in the case of the introduction of a new or additional function or service expansion or the termination of a service or function, ascertaining the availability of such service or function at other inpatient rehabilitation facilities, health care facilities or institutions or state health care facilities or institutions or other providers within the area to be served, the need for such service or function within such area and any other factors which the office deems relevant to a determination of whether the facility or institution is justified in introducing or terminating such functions or services into or from its program. The office shall grant, modify or deny such request no later than ninety days after the date of receipt of a complete application, except as provided for in this section. Upon the request of the applicant, the review period may be extended

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for an additional fifteen days if the office has requested additional information subsequent to the commencement of the review period. The commissioner may extend the review period for a maximum of thirty days if the applicant has not filed in a timely manner information deemed necessary by the office. Failure of the office to act on such request within such review period shall be deemed approval thereof. The ninety-day review period, pursuant to this subsection, for an application filed by a hospital, as defined in section 19a-490 of the 2008 supplement to the general statutes, and licensed as a short-term acute-care general hospital or children's hospital by the Department of Public Health or an affiliate of such a hospital or any combination thereof, shall not apply if, in the certificate of need application or request, the hospital or applicant projects either (1) that, for the first three years of operation taken together, the total impact of the proposal on the operating budget of the hospital or an affiliate of such a hospital or any combination thereof will exceed one per cent of the actual operating expenses of the hospital for the most recently completed fiscal year as filed with or determined by the office, or (2) that the total capital expenditure for the project will exceed fifteen million dollars. If the office determines that an application is not subject to the ninety-day review period pursuant to this subsection, it shall remain so excluded for the entire review period of that application, even if the application or circumstances change and the application no longer meets the stated terms of the exclusion. Upon a showing by such facility or institution that the need for such function, service or termination or change of ownership or control is of an emergency nature, in that the function, service or termination or change of ownership or control is necessary to maintain continued access to the health care services provided by the facility or institution, or to comply with requirements of any federal, state or local health, fire, building or life safety code, the commissioner may waive the letter of intent requirement, provided such request shall be submitted [at least ten business] not less than fourteen days before the proposed date of



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institution of the function, service or termination or change of ownership or control.

(c) (1) The office may hold a public hearing with respect to any complete certificate of need application submitted under this section. At least two weeks' notice of such public hearing shall be given to the applicant, in writing, and to the public by publication in a newspaper having a substantial circulation in the area served by the facility, institution or provider. At the discretion of the office, such hearing may be held in Hartford or in the area so served or to be served. In conducting its activities under this section, section 19a-639, or under both sections, the office may hold hearings on applications of a similar nature at the same time.

(2) The office may hold a public hearing after consideration of criteria that include, but need not be limited to, whether the proposal involves: (A) The provision of a new or additional health care function or service through the use of technology that is new or being introduced into the state; (B) the provision of a new or additional health care function or service that is not provided in either a region designated by the applicant or in the applicant's existing primary service area as defined by the office; or (C) the termination of an existing health care function or service, the reduction of total beds or the closing of a health care facility.

(3) The office shall hold a public hearing with respect to any complete certificate of need application submitted to the office under this section if (A) three individuals or an individual representing an entity with five or more people submit a request, in writing, that a public hearing be held on the proposal after the office has published notice of a complete letter of intent, and (B) such request is received by the office not later than twenty-one [calendar] days after the date that the office deems the certificate of need application complete.

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[(d) For the purposes of this section, section 19a-639 or both sections, construction shall be deemed to have begun if the following have occurred and the office has been so notified in writing within the thirty days prior to the date by which construction is to begin: (1) All necessary town, state and federal approvals required to begin construction have been obtained, including all zoning and wetlands approvals; (2) all necessary town and state permits required to begin construction or site work have been obtained; (3) financing approval, as defined in subsection (e) of this section, has been obtained; and (4) construction of a structure approved in the certificate of need has begun. For the purposes of this subsection, commencement of construction of a structure shall include, at a minimum, completion of a foundation. Notwithstanding the provisions of this subsection, upon receipt of an application filed at least thirty days prior to the date by which construction is to begin, the office may deem construction to have begun if (A) an owner of a certificate of need has fully complied with the provisions of subdivisions (1), (2) and (3) of this subsection; (B) such owner submits clear and convincing evidence that he has complied with the provisions of this subsection sufficiently to demonstrate a high probability that construction shall be completed in time to obtain licensure by the Department of Public Health on or before the date required in the certificate of need as the office may amend it from time to time; (C) construction of a structure cannot begin due to unforeseeable circumstances beyond the control of the owner; and (D) at least ten per cent of the approved total capital expenditure or two hundred fifty thousand dollars, whichever is greater, has been expended.

(e) Financing shall be deemed to have been obtained for the purposes of this section if the owner of the certificate of need has (1) received a final commitment for financing in writing from a lender, or (2) provided evidence to the office that the owner has sufficient funds available to construct the project without financing.

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(f) The General Assembly finds evidence of insufficient need for all the nursing home beds approved by the Office of Health Care Access but not yet constructed and finds allowing unnecessary beds and facilities to be built will result in severely damaging economic consequences to the state and to consumers. All certificates of need for nursing home beds granted pursuant to this section shall expire on June 9, 1993, except (1) beds for which an application for financing was received and deemed complete by the Connecticut Health and Educational Facilities Authority prior to March 1, 1993; (2) beds restricted to use by patients with acquired immune deficiency syndrome or traumatic brain injury; (3) beds associated with a continuing care facility which guarantees life care for its residents as defined in subsection (b) of section 17b-354; (4) beds authorized under a certificate of need for an addition of five beds in a facility which has undertaken the addition of ten beds pursuant to section 17b-351; and (5) beds for which twenty-five per cent of project costs have been expended prior to June 9, 1993, as submitted to the Office of Health Care Access in the form of a report prepared by a certified public accountant having no affiliation with the owner of the certificate of need or the developer of the project. A certificate of need which has expired pursuant to this subsection may be reauthorized by the Office of Health Care Access, provided need for nursing home beds exists and twenty per cent or more of the project costs have been expended by June 9, 1993. A request for reauthorization shall be submitted to the Office of Health Care Access no later than July 15, 1993. The office shall issue a decision on such request within forty-five days of receipt of documentation necessary to determine expended project costs. Project expenditures shall cease from June 9, 1993, until reauthorization by the office. Evidence of project costs expended shall be submitted in the form of a report prepared by a certified public accountant having no affiliation with the owner of the certificate of need or the developer of the project. For the purposes of this section, "need for nursing home beds" means there is a demonstrated bed need in the towns within

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twenty miles of the town in which the facility is proposed to be located, including the town of the proposed location, as listed in the March 1, 1974, official mileage table of the Public Utilities Commission. Bed need shall be projected no more than five years into the future at ninety-seven and one-half per cent occupancy using the latest official population projections by town and age as published by the Office of Policy and Management and the latest available nursing home utilization statistics by age cohort from the Department of Public Health. For the purposes of this subsection, "project costs" means the capital costs approved by the Office of Health Care Access in the certificate of need, exclusive of the cost of land acquisition. Owners of certificates of need for nursing home beds which have expired may apply to the Commissioner of Social Services for compensation on or after June 29, 1993, but no later than September 1, 1993. Such compensation shall be limited to actual verifiable losses which directly result from the expiration of the certificate of need pursuant to this subsection and which cannot be otherwise recouped through the mitigating efforts of the owner, excluding consequential and incidental losses such as lost profits. Such compensation shall not exceed an amount approved by the office within the certificate of need unless the commissioner determines it is reasonable or cost-effective to compensate the excess amount. Notwithstanding any provision of this subsection, no compensation shall be provided to an owner of a certificate of need whose ability to implement the certificate of need is contingent on the outcome of a legal action taken against the owner until the owner obtains a final decision in his favor. An owner aggrieved by the amount of compensation determined by the commissioner may request a hearing in accordance with the provisions of sections 17b-61 and 17b-104. The commissioner may so compensate an owner of a certificate of need for nursing home beds who volunteers to relinquish such a certificate, provided the request for compensation is received by the commissioner prior to July 15, 1993. The commissioner shall notify such an owner as to whether he will be

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compensated within forty-five days from receipt of notice of voluntary relinquishment or forty-five days of June 29, 1993, whichever is later.]

Sec. 4. Subdivisions (2) and (3) of subsection (b) of section 19a-639 of the 2008 supplement to the general statutes are repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(2) An applicant, prior to submitting a certificate of need application, shall submit a request, in writing, for application forms and instructions to the office. The request shall be known as a letter of intent. A letter of intent shall conform to the letter of intent requirements of subdivision (4) of subsection (a) of section 19a-638, as amended by this act. No certificate of need application will be considered submitted to the office unless a current letter of intent, specific to the proposal and in compliance with this subsection, is on file with the office for [at least] not less than sixty days. A current letter of intent is a letter of intent that has been on file at the office no more than one hundred twenty days, except that an applicant may request a one-time extension of a letter of intent of [up to] not more than an additional thirty days for a maximum total of [up to] not more than one hundred fifty days if, prior to the expiration of the current letter of intent, the office receives a written request to so extend the letter of intent's current status. The extension request shall fully explain why an extension is requested. The office shall accept or reject the extension request not later than [five business] seven days from the date the office receives the extension request and shall so notify the applicant. Upon a showing by such facility or institution that the need for such capital program is of an emergency nature, in that the capital expenditure is necessary to maintain continued access to the health care services provided by the facility or institution, or to comply with any federal, state or local health, fire, building or life safety code, the commissioner may waive the letter of intent requirement, provided such request shall be submitted [at least ten business] not less than

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fourteen days before the proposed initiation date of the project. The commissioner shall grant, modify or deny such request not later than ninety days or not later than [ten business] fourteen days, as the case may be, after receipt of such request, except as provided for in this section. Upon the request of the applicant, the review period may be extended for an additional fifteen days if the office has requested additional information subsequent to the commencement of the review period. The commissioner may extend the review period for a maximum of thirty days if the applicant has not filed, in a timely manner, information deemed necessary by the office. Failure of the office to act upon such request within such review period shall be deemed approval of such request. The ninety-day review period, pursuant to this section, for an application filed by a hospital, as defined in section 19a-490 of the 2008 supplement to the general statutes, and licensed as a short-term acute care general hospital or a children's hospital by the Department of Public Health or an affiliate of such a hospital or any combination thereof, shall not apply if, in the certificate of need application or request, the hospital or applicant projects either (A) that, for the first three years of operation taken together, the total impact of the proposal on the operating budget of the hospital or an affiliate or any combination thereof will exceed one per cent of the actual operating expenses of the hospital for the most recently completed fiscal year as filed with the office, or (B) that the total capital expenditure for the project will exceed fifteen million dollars. If the office determines that an application is not subject to the ninety-day review period pursuant to this subsection, it shall remain so excluded for the entire period of that application, even if the application or circumstances change and the application no longer meets the stated terms of the exclusion. The office shall adopt regulations, in accordance with chapter 54, to establish an expedited hearing process to be used to review requests by any facility or institution for approval of a capital expenditure to establish an energy conservation program or to comply with requirements of any federal,

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state or local health, fire, building or life safety code or final court order. The office shall adopt regulations in accordance with the provisions of chapter 54 to provide for the waiver of a hearing for any part of a request by a facility or institution for a capital expenditure, provided such facility or institution and the office agree upon such waiver.

(3) The office shall comply with the public notice provisions of subdivision (4) of subsection (a) of section 19a-638, as amended by this act, and shall hold a public hearing with respect to any complete certificate of need application filed under this section, if: (A) The proposal has associated total capital expenditures or total capital costs that exceed twenty million dollars for land, building or nonclinical equipment acquisition, new building construction or building renovation; (B) the proposal has associated total capital expenditures per unit or total capital costs per unit that exceed three million dollars for the purchase, lease or donation acceptance of major medical equipment; (C) the proposal is for the purchase, lease or donation acceptance of equipment utilizing technology that is new or being introduced into the state, including scanning equipment, cineangiography equipment, a linear accelerator or other similar equipment; or (D) three individuals or an individual representing an entity comprised of five or more people submit a request, in writing, that a public hearing be held on the proposal and such request is received by the office not later than twenty-one [calendar] days after the office deems the certificate of need application complete. At least two weeks' notice of such public hearing shall be given to the applicant, in writing, and to the public by publication in a newspaper having a substantial circulation in the area served by the applicant. At the discretion of the office, such hearing shall be held in Hartford or in the area so served or to be served.

Sec. 5. Section 19a-639e of the general statutes is repealed and the

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following is substituted in lieu thereof (*Effective July 1, 2008*):

Notwithstanding the provisions of sections 19a-486 to 19a-486h, inclusive, section 19a-638, as amended by this act, 19a-639 of the 2008 supplement to the general statutes, as amended by this act, or any other provision of this chapter, the Office of Health Care Access may refuse to accept as filed or submitted a letter of intent or a certificate of need application from any person or health care facility or institution that failed to submit any required data or information, or has filed any required data or information that is incomplete or not filed in a timely fashion. Prior to any refusal and accompanying moratorium under the provisions of this section, the Commissioner of Health Care Access shall notify the person or health care facility or institution, in writing, and such notice shall identify the data or information that was not received and the data or information that is incomplete in any respect. Such person or health care facility or institution shall have [fifteen business] twenty-one days from the date of mailing the notice to provide the commissioner with the required data or information. Such refusal and related moratorium on accepting a letter of intent or a certificate of need application may remain in effect, at the discretion of the Commissioner of Health Care Access, until the office determines that all required data or information has been submitted. The commissioner shall have [fifteen business] twenty-one days to notify the person or health care facility or institution submitting the data and information whether or not the letter of intent or certificate of need application is refused. Nothing in this section shall preclude or limit the office from taking any other action authorized by law concerning late, incomplete or inaccurate data submission in addition to such a refusal and accompanying moratorium.

Sec. 6. Subsection (b) of section 19a-681 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):



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(b) If the billing detail by line item on a patient bill does not agree with the detailed schedule of charges on file with the office for the date of service specified on the bill, the hospital shall be subject to a civil penalty of five hundred dollars per occurrence payable to the state [within ten business] not later than fourteen days after the date of notification. The penalty shall be imposed in accordance with subsections (b) to (e), inclusive, of section 19a-653. The office may issue an order requiring such hospital, [within ten business] not later than fourteen days after the date of notification of an overcharge to a patient, to adjust the bill to be consistent with the schedule of charges on file with the office for the date of service specified on the patient bill.

Sec. 7. Subsection (b) of section 17b-351 of the general statutes is repealed and the following is substituted in lieu thereof (*Effective July 1, 2008*):

(b) The General Assembly finds evidence of insufficient need for all the nursing home beds permitted pursuant to subsection (a) of this section, but not licensed by the Department of Public Health and finds allowing unnecessary beds to be licensed will result in severely damaging economic consequences to the state and to consumers. An addition of beds initiated pursuant to this section shall be licensed no later than June 9, 1993. A facility which has initiated the addition of beds but has not obtained licensure of such beds, may, no later than July 15, 1993, apply to the Office of Health Care Access for authorization to proceed with completion of the additional beds and application for licensure, provided (A) plans for the additional beds have been approved by the Department of Public Health pursuant to section 19-13-D-8t(v)(4) of the Public Health Code no later than June 1, 1993, and (B) twenty-five per cent of estimated project costs have been expended no later than June 9, 1993, provided project costs may not exceed thirty-one thousand two hundred eleven dollars per bed. The

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office shall issue a decision on such application within forty-five days of receipt of documentation necessary to determine expended project costs. Evidence of project costs expended shall be submitted in the form of a report prepared by a certified public accountant having no affiliation with the owner of the facility or the developer of the project. The owner of a facility for which completion of additional beds is not so authorized may apply to the Commissioner of Social Services for compensation on or after June 29, 1993, but no later than September 1, 1993, provided plans for the additional beds have been approved by the Department of Public Health no later than June 1, 1993. Such compensation shall be limited to actual verifiable losses which directly result from the failure to gain authorization pursuant to this subsection and which cannot be otherwise recouped through the mitigating efforts of the owner, excluding consequential and incidental losses such as lost profits. In no event may such compensation exceed project costs. An owner aggrieved by the amount of compensation determined by the commissioner may request a hearing in accordance with the provisions of sections 17b-60 and 17b-61. [This subsection shall not apply to any addition of beds pursuant to this section which is part of a construction project that also includes an addition of beds authorized pursuant to subdivision (4) of subsection (f) of section 19a-638.]

Sec. 8. (*Effective July 1, 2008*) Section 19a-611 of the general statutes is repealed.

Approved April 29, 2008